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U.S. DISTRICT COURT D.N.Y.

★ MAR 17 2010 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X BROOKLYN OFFICE

LEROY DOWNS,

Plaintiff,

-against-

CITY OF NEW YORK, SCOTT GIACONA, JAMES
MAHONEY, and JOHN AND JANE DOE 1 through 10,
individually and in their official capacities, (the names John
and Jane Doe being fictitious as the true names are
presently unknown),

Defendants.

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISMISSAL**

09 CV 5006 (NG)(JO)

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WHEREAS, plaintiff commenced this action by filing a complaint, on or about
November 13, 2009, alleging violations of his state and federal constitutional rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's
allegations; and

WHEREAS, the parties now desire to resolve the remaining issues raised in this
litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms
set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by
and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and
without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff LEROY DOWNS, Fifteen Thousand Dollars (\$15,000.00) in full satisfaction of all claims, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendants CITY OF NEW YORK, SCOTT GIACONA and JAMES MAHONEY, and to release defendants CITY OF NEW YORK, SCOTT GIACONA and JAMES MAHONEY, and any present or former employees or agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of the events alleged in the complaint, including claims for costs, expenses and attorney's fees.

3. Plaintiff shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit of Status of Liens.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

~~February 12~~
March 12, 2010

LEVENTHAL & KLEIN, LLP
Jason Leventhal, Esq.
45 Main Street, Suite 230
Brooklyn, NY 11201
(718) 722-4100

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, 3-148
New York, New York 10007
(212) 227-0414

By:


JASON LEVENTHAL (JL 1067)

By:


KARL J. ASHANTI (KA4547)
Assistant Corporation Counsel

SO ORDERED:

s/NG
U.S.D.J.
3-15-10